

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JOHN D CROUCH,

Plaintiff,

vs.

COLORADO STATE BANK &  
TRUST; PROBATE COURT OF  
DENVER, COLORADO,

Defendants.

CASE NO. 10-CV-852 W (AJB)

**ORDER GRANTING MOTION  
FOR LEAVE TO PROCEED IN  
FORMA PAUPERIS (Doc. No. 2.)**

On April 21, 2010, Plaintiff John D Crouch (“Plaintiff”), proceeding *pro se*, filed a complaint to challenge the denial of a scheduled trust-fund distribution. (Doc. No. 1.) The same day, Plaintiff moved for leave to proceed *in forma pauperis* (“IFP”). (Doc. No. 2.) The Court takes the matters under submission and without oral argument. See S.D. Cal. Civ. R. 7.1(d)(1). For the following reasons, the Court **GRANTS** Plaintiff’s IFP request.

The determination of indigency falls within the district court’s discretion. California Men’s Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991), rev’d on other grounds, 506 U.S. 194 (1993) (“[28 U.S.C. §] 1915 typically requires the reviewing court to exercise its sound discretion in determining whether the affiant has satisfied the statute’s requirement of indigency.”). It is well settled that a party need not be

1 completely destitute to proceed IFP. Adkins v. E.I. DuPont de Nemours & Co., 335  
2 U.S. 331, 339–40 (1948); see also Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir.  
3 1995) (“[T]he filing fee, while discretionary, should not take the prisoner’s last dollar.”  
4 [citations]). Rather, to satisfy the requirements of 28 U.S.C. § 1915(a), an affidavit  
5 need only state that one cannot “because of his poverty pay or give security for costs . . .  
6 and still be able to provide himself and dependents with the necessities of life.” Adkins,  
7 335 U.S., at 339. At the same time, however, the court must “assure that federal funds  
8 are not squandered to underwrite, at public expense, . . . the remonstrances of a suitor  
9 who is financially able, in whole or in material part, to pull his own oar.” Temple v.  
10 Ellerthorpe, 586 F. Supp. 848, 850 (D.R.I. 1984).

11 Here, Plaintiff indicates that he is currently unemployed, has no checking or  
12 savings account, and is currently living in a County of San Diego mental health facility.  
13 Given that Plaintiff’s current monthly obligations in all likelihood outpace his monthly  
14 income, the Court finds that forcing Plaintiff to pay the filing fee would deprive him of  
15 the necessities of life.

16 Accordingly, the Court **GRANTS** Plaintiff’s motion to proceed IFP. However,  
17 if it appears at any time in the future that Plaintiff’s financial picture has improved for  
18 any reason, the Court will direct Plaintiff to pay the filing fee to the Clerk of the Court.  
19 **This includes any recovery Plaintiff may realize from this suit or others, and any**  
20 **assistance Plaintiff may receive from family or the government.**

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22 **IT IS SO ORDERED.**

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24 DATED: April 30, 2010

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Hon. Thomas J. Whelan  
United States District Judge